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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,307	09/26/2001	James T. Bodner	200302220-1	9916

22879   7590   03/05/2008
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EXAMINER
AILES, BENJAMIN A

ART UNIT	PAPER NUMBER
2142	

NOTIFICATION DATE	DELIVERY MODE
03/05/2008	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/964,307
Filing Date: September 26, 2001
Appellant(s): BODNER ET AL.

MAILED

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Technology Center 2100

Jonathan M. Harris
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11 January 2008 appealing from the Office

action mailed 06 June 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The amendment after final rejection filed on 11 January 2008 has been entered.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2004/0226010	SUORSA	11-2004
7,080,138	BAKER	7-2006

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 1, 5-7, 11-14 and 18-20 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Suorsa (US 2004/0226010 A1) in view of Baker et al. (US 7,080,138

B1), hereinafter referred to as Baker.

3.   Regarding claim 1, Suorsa teaches a method for configuring a server in a system

including a plurality of servers, comprising:

requesting configuration data by the server to be configured (p. 6, para. 0048, ll.

8-11, Suorsa teaches a server agent sending a request for configuration information.);

automatically retrieving the suitable configuration data from a server (p. 6, para.

0048, ll. 4-11, Suorsa teaches the configuration data being provided to the requesting

server); and'

providing the retrieved configuration data to the server to be configured (p. 6,

para. 0048, ll. 4-11, Suorsa teaches the configuration data being provided to the

requesting server).

Suorsa teaches the acquisition of configuration data from a server but does not

explicitly teach the step "without human intervention, identifying from among a plurality

of servers, which server includes configuration data suitable for use by the server to be configured, wherein each of the plurality of servers has configuration data that can be used to configure another server". However, in related art, Baker teaches on this limitation wherein Baker teaches a method for content server selection. Baker teaches wherein a client submits a request and a particular server can be selected from a group of servers that can provide the content desired in an optimal manner (col. 2, ll. 26-29). Once the content server is selected the appropriate content is distributed to the client (col. 2, ll. 66 - col. 3, ll. 2). One of ordinary skill in the art at the time of the applicant's invention would have found it obvious to alter the configuration data acquisition method as taught by Suorsa with the improved method of acquiring content taught by Baker wherein content can be retrieved from a particular server selected from a group of servers. One of ordinary skill in the art would have been motivated to make such a combination as suggested by Baker wherein it is desirable when transporting data to select a content server with the best available combination of latency, bandwidth and reliability and provide content to a client in an optimal manner (Baker, col. 1, ll. 21-25 and col. 2, ll. 25-29).

4.   Regarding claim 5, Suorsa and Baker teach the method wherein (a) includes providing a server type value with said request for configuration data (Suorsa, p. 7, para. 0054, ll.10-14, Suorsa teaches the method of assigning a version value to the server).

5.   Regarding claim 6, Suorsa and Baker teach the method further including using said server type value to identify which of said other servers includes configuration data

suitable for use by the server being configured (Suorsa, p. 7, para. 0054, ll. 3-7, Suorsa teaches the use of the version value in order to determine how recent the configuration data is.).

6.   Regarding claim 7, Suorsa teaches a computer system, comprising a first server (p. 6, para. 0048, ll. 8-11, Suorsa teaches a server agent.) automatically configuring itself by submitting a request for configuration data from another server (p. 6, para. 0048, ll. 4-11, Suorsa teaches the configuration data being provided to the requesting server), the server includes configuration data suitable for use by the installed server (p. 6, para. 0048, ll. 4-11, Suorsa teaches the configuration data being provided to the requesting server).

Suorsa teaches the acquisition of configuration data from a server but does not explicitly teach the step "submitting a request for configuration data to a first chassis communication module which identifies, from among a plurality of other servers, which server includes configuration data suitable for use by the installed server, wherein each of the plurality of other servers has configuration data that can be used to configure the installed server". However, in related art, Baker teaches on this limitation wherein Baker teaches a method for content server selection. Baker teaches wherein a client submits a request and a particular server is selected from a group of servers that can provide the content desired in an optimal manner (col. 2, ll. 26-29). Once the content server is selected the appropriate content is distributed to the client (col. 2, ll. 66- col. 3, ll. 2). One of ordinary skill in the art at the time of the applicant's invention would have found it obvious to alter the configuration data acquisition method as taught by Suorsa

with the improved method of acquiring content taught by Baker. One of ordinary skill in

the art would have been motivated to make such a combination as suggested by Baker

wherein it is desirable when transporting data to select a content server with the best

available combination of latency, bandwidth and reliability and provide content to a

client in an optimal manner (Baker, col. 1, ll. 21-25 and col. 2, ll. 25-29).

7.   Regarding claim 11, Suorsa and Baker teach the use of a plurality of servers

having multiple modules including configuration data saved thereto (Suorsa, p. 5, paras.

0041-0042).

8.   Regarding claim 12, Suorsa and Baker teach the computer system wherein said

request includes the type of server to be configured and said first chassis

communication module uses said type of server to retrieve configuration data suitable

for the installed server (Suorsa, p. 7, para. 0058, Suorsa discloses the system wherein

different servers being of different types and having different roles and therefore

requiring different types of configuration data. The configuration data obtained and

installed is based on what type of server is being configured.).

9.   Regarding claim 13, Suorsa and Baker teach the computer system wherein said

first chassis communication module finds another of said first plurality of servers that is

of the same type as the installed server and retrieves said configuration data

corresponding to such matching other server (Suorsa, p. 7, para. 0059, ll. 7-13, Suorsa

discloses the servers being of different types and therefore requiring different types of

configuration data. The server to be configured locates a similar server and obtains and

installs the appropriate configuration data.).

10.   Regarding claim 14, Suorsa teaches an electronic system, comprising a first

server (p. 6, para. 0048, ll. 8-11, Suorsa teaches a server agent.) automatically

configuring itself by submitting a request for configuration data from another server (p.

6, para. 0048, ll. 4-11, Suorsa teaches the configuration data being provided to the

requesting server), the server includes configuration data suitable for use by the

installed server (p. 6, para. 0048, ll. 4-11, Suorsa teaches the configuration data being

provided to the requesting server).

     Suorsa teaches the acquisition of configuration data from a server but does not

explicitly teach the step "submitting a request for configuration data to a first chassis

communication module which identifies, from among a plurality of other servers, which

server includes configuration data suitable for use by the installed server, wherein each

of the plurality of other servers has configuration data that can be used to configure the

installed server". However, in related art, Baker teaches on this limitation wherein

Baker teaches a method for content server selection. Baker teaches wherein a client

submits a request and a particular server is selected from a group of servers that can

provide the content desired in an optimal manner (col. 2, ll. 26-29). Once the content

server is selected the appropriate content is distributed to the client (col. 2, ll. 66- col. 3,

ll. 2). One of ordinary skill in the art at the time of the applicant's invention would have

found it obvious to alter the configuration data acquisition method as taught by Suorsa

with the improved method of acquiring content taught by Baker. One of ordinary skill in

the art would have been motivated to make such a combination as suggested by Baker

wherein it is desirable when transporting data to select a content server with the best

available combination of latency, bandwidth and reliability and provide content to a

client in an optimal manner (Baker, col. 1, ll. 21-25 and col. 2, ll. 25-29).

11.   Regarding claim 18, Suorsa and Baker teach the use of a plurality of servers

having multiple modules including configuration data saved thereto (Suorsa, p. 5, paras.

0041-0042).

12.   Regarding claim 19, Suorsa and Baker teach the computer system wherein said

request includes the type of server to be configured and said first chassis

communication module uses said type of server to retrieve configuration data suitable

for the installed server (Suorsa, p. 7, para. 0058, Suorsa discloses the system wherein

different servers being of different types and having different roles and therefore

requiring different types of configuration data. The configuration data obtained and

installed is based on what type of server is being configured.).

13.   Regarding claim 20, Suorsa and Baker teach the computer system wherein said

first chassis communication module finds another of said first plurality of servers that is

of the same type as the installed server and retrieves said configuration data

corresponding to such matching other server (Suorsa, p. 7, para. 0059, ll. 7-13, Suorsa

discloses the servers being of different types and therefore requiring different types of

configuration data. The server to be configured locates a similar server and obtains and

installs the appropriate configuration data.).

(10) Response to Argument

1. Appellant argues with respect to independent claim 1 that there is no

suggestion to combine the references. Specifically, appellant argues that the

"Examiner's proposed modification to Suorsa's centralized network architecture using

Baker's decentralized content provider architecture would render Suorsa unsatisfactory

for its intended purpose (i.e. configuring devices from a centralized server)." The

examiner recognizes that obviousness can only be established by combining or

modifying the teachings of the prior art to produce the claimed invention where there is

some teaching, suggestion, or motivation to do so found either in the references

themselves or in the knowledge generally available to one of ordinary skill in the art.

See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958

F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). It is submitted by the examiner that

Suorsa is merely relied upon for teaching the idea in the art to provide configuration

data to a requesting server as set forth on page 6, paragraph 0048, lines 4-11. The

examiner is not concerned with how Suorsa provides the configuration data to a

requesting server as assumed by the appellant and therefore the examiner submits that

the appellant has misconstrued the rejection set forth. The examiner relies upon Baker

for teaching a method for providing a method for the configuration data delivery to a

requesting server when combined with Suorsa. The examiner submits that Baker

teaches in column 2, lines 26-29 a client submitting a request and a particular server

being selected from a group of servers that can provide the content desired in an

optimal manner. Further, with respect to the filed claims, it is noted that whether the

network servers are centralized or decentralized is not required by the filed claims and

therefore this characteristic of Suorsa or Baker is deemed irrelevant to the combination

set forth in the rejection. Therefore, claims 1, 7, 14 and the remaining dependent claims are not deemed patentable over the prior art of record.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.
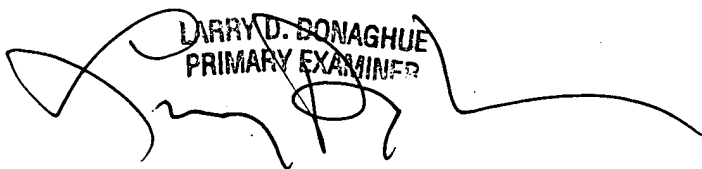
Respectfully submitted,

Benjamin A. Ailes

Examiner, Art Unit 2142

Conferees:

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SUPERVISORY PATENT EXAMINER

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